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UNITED STATES BANKRUPTCY COURT

3

SOUTHERN DISTRICT OF NEW YORK

4

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In Re:

Chapter 11

5

LEHMAN BROTHERS

Case No. 08-13555 (JMP)

HOLDINGS, INC., et al.,

(Jointly Administered)

6

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8

* * * HIGHLY CONFIDENTIAL * * *

9

DEPOSITION OF JASEN YANG

10

New York, New York

11

Friday, September 4, 2009

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Reported by:

FRANCIS X. FREDERICK, CSR, RPR, RMR

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JOB NO. 24621

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Page 2

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4
5 September 4, 2009
6 9:36 a.m.
7
8
9 HIGHLY CONFIDENTIAL deposition of
10 JASEN YANG, held at the offices of Jones
11 Day, 222 East 41st Street, New York, New
12 York, pursuant to Notice, before Francis
13 X. Frederick, a Certified Shorthand
14 Reporter, Registered Merit Reporter and
15 Notary Public of the States of New York
16 and New Jersey.
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Page 4

1 J. YANG - HIGHLY CONFIDENTIAL
2 J A S E N Y A N G, called as a witness,
3 having been duly sworn by a Notary
4 Public, was examined and testified as
5 follows:
6 EXAMINATION BY
7 MR. HINE:
8 Q. Good morning, Mr. Yang.
9 A. Good morning.
10 Q. My name is -- we met off the
11 record but my name is Bill Hine and I'm with
12 the firm of Jones Day and we are special
13 counsel to the Creditors Committee -- I'm
14 sorry, to the estate of Lehman Brothers
15 Holdings, Inc. in connection with this
16 bankruptcy proceeding so we're taking some
17 discovery with respect to that. And this
18 deposition here is what's called a 30(b)(6)
19 deposition and you've been designated by
20 Barclays as a deponent for a couple select
21 topics which we'll go over in a little bit.
22 A. Um-hum.
23 Q. Have you ever been deposed before?
24 A. No, I have not.
25 Q. Okay. So I'm sure your counsel

Page 3

1
2 A P P E A R A N C E S:
3
4 JONES DAY, LLP
5 Attorneys for Lehman Brothers, Inc.
6 222 East 41st Street
7 New York, New York 10017-6702
8 BY: WILLIAM J. HINE, ESQ.
9 GEORGE E. SPENCER, ESQ.
10
11 BOIES SCHILLER & FLEXNER, LLP
12 Attorneys for Barclays Capital
13 575 Lexington Avenue - 7th Floor
14 New York, New York 10022
15 BY: JACK G. STERN, ESQ.
16
17 HUGHES, HUBBARD & REED, LLP
18 Attorneys for the SIPA Trustee
19 One Battery Park Plaza
20 New York, New York 10004-1482
21 BY: SAMUEL C. MCCOUBREY, ESQ.
22
23 ALSO PRESENT:
24 INGRID M. CHRISTIAN, Alvarez & Marsal
25

Page 5

1 J. YANG - HIGHLY CONFIDENTIAL
2 has advised you of the ground rules but
3 basically I'm going to ask you some questions.
4 You're going to give me some answers to the
5 best you can. My one request is that sometime
6 during the deposition I will undoubtedly ask a
7 misleading question or use a word improperly
8 or one of your technical terms that you folks
9 use. Please correct me, ask me to clarify it.
10 I want to ask you clear questions so you can
11 give me clear answers. So if we can agree on
12 that we can probably get started.
13 MR. STERN: Yes. I'll just note
14 for the record that the two topics are
15 first topic 4 which is a person with
16 knowledge of the calculations shown on
17 the e-mail of BCI 000580; and topic 5,
18 the marking process to take place the
19 afternoon of Friday, September 19th,
20 2008, referenced in BCI 000878 and
21 BCI-EX-00012161.
22 BY MR. HINE:
23 Q. And I will be asking you questions
24 about those topics but also some general
25 questions around those topics.

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Page 6	Page 7
<p>1 J. YANG - HIGHLY CONFIDENTIAL</p> <p>2 MR. HINE: So we do reserve our</p> <p>3 rights to conduct the deposition of Mr.</p> <p>4 Yang in his personal capacity if the</p> <p>5 need ever arises.</p> <p>6 But in that vein why don't we</p> <p>7 enter as the first exhibit the</p> <p>8 deposition notice.</p> <p>9 MR. SPENCER: Previously marked.</p> <p>10 BY MR. HINE:</p> <p>11 Q. Okay. Mr. Yang, I'm handing you a</p> <p>12 copy of a document previously marked as</p> <p>13 Exhibit 81B from which your counsel was</p> <p>14 reading, I believe. I just wanted to point</p> <p>15 out to you topics 4 and 5 on page 3.</p> <p>16 A. Um-hum.</p> <p>17 Q. Do you see them?</p> <p>18 A. Yes, I do.</p> <p>19 Q. You understand that you've been</p> <p>20 designated by Barclays as the witness to speak</p> <p>21 on those topics?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Did you prepare for your</p> <p>24 deposition at all today?</p> <p>25 A. Maybe.</p>	<p>1 J. YANG - HIGHLY CONFIDENTIAL</p> <p>2 Q. What does that mean?</p> <p>3 MR. STERN: Yes. He met --</p> <p>4 A. Yes. The short answer is yes. I</p> <p>5 didn't know if the question was today or...</p> <p>6 Q. Okay. Fair enough.</p> <p>7 Did you conduct any investigations</p> <p>8 or factual reviews in preparation for your</p> <p>9 deposition on those two topics?</p> <p>10 A. Yeah. I took a look at some of</p> <p>11 the e-mails that came across my desk around</p> <p>12 that time.</p> <p>13 Q. Okay. Anything else?</p> <p>14 A. No. Just review of personal -- of</p> <p>15 my e-mails.</p> <p>16 Q. Okay. Did you meet with counsel</p> <p>17 in preparation for today's deposition?</p> <p>18 A. Yes, I did.</p> <p>19 Q. Okay. Did you review any</p> <p>20 documents with counsel?</p> <p>21 A. Yes, I did.</p> <p>22 Q. Did any of those documents refresh</p> <p>23 your recollection about either of these two</p> <p>24 topics?</p> <p>25 A. Yes.</p>
Page 8	Page 9
<p>1 J. YANG - HIGHLY CONFIDENTIAL</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12 REDACTED</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12 REDACTED</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

PAGES 10-25 REDACTED

Confidential

Page 26	Page 27
<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>REDACTED</p>	<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>REDACTED</p>
Page 28	Page 29
<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>REDACTED</p> <p>Q. Well, let me be clear. I mean, it's not the number of CUSIPS or the number of securities, right?</p> <p>A. No, I don't think so. It would be -- it would be some representation of somebody's marks but certainly not Barclays' because we had just received -- we were in the process of figuring out what these actual portfolios were.</p> <p>Q. So you understand these to be dollar figures in billions of dollars, right?</p> <p>A. Yes. Dollars in billions.</p> <p>Q. And do you know whose -- well, before we get to that do you see where it says, "Collateral received from Lehman on Fed facility"?</p> <p>A. Um-hum.</p> <p>Q. What did you understand that to mean?</p> <p>A. Well, I suppose -- and I have to</p>	<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>J. YANG - HIGHLY CONFIDENTIAL say I don't agree necessarily with what Marty wrote there.</p> <p>Q. Sure.</p> <p>A. I think he intended it to mean that these are assets that would then secure the 45 billion of lending that Barclays was doing. But I don't agree with him necessarily because some of these items I'm not sure were actually part of the repo transaction.</p> <p>Q. Well, let me just --</p> <p>A. But I don't necessarily have...</p> <p>Q. When you talked about the 45 billion in lending you were talking about the September 18th repo transaction?</p> <p>A. Yes. That's what I think the line that says repo cash amount represents.</p> <p>Q. Okay. That's --</p> <p>A. Towards the bottom.</p> <p>Q. So that's \$45 billion, right?</p> <p>A. Yes.</p> <p>Q. And that's the amount that Barclays effectively paid Lehman through the September 18th repo transaction, right?</p> <p>A. Right.</p>

Confidential

Page 30		Page 31	
1	J. YANG - HIGHLY CONFIDENTIAL	1	
2	Q. And the Total Securities/Cash	2	
3	Received, do you see that line, which is 52.19	3	
4	billion?	4	
5	A. Um-hum.	5	
6	Q. What does that represent?	6	
7	A. That's the sum of the numbers	7	
8	attributed to the five -- the five blocks of	8	
9	assets that Barclays received or expected to	9	
10	receive.	10	
11	Q. Okay. So that's the value of the	11	
12	collateral that was posted in support of	12	
13	Barclays paying \$45 billion, right?	13	
14	MR. STERN: Objection to the form.	14	
15	Could you repeat the question, Francis?	15	
16	(Record read.)	16	
17	MR. STERN: You can answer.	17	
18	A. I wouldn't say that. We, at that	18	
19	point, hadn't had a chance to look at the	19	
20	securities; so therefore had -- you know,	20	
21	couldn't really put a value on it, per se.	21	
22	So these numbers -- I think that	22	
23	number is a proxy but subject to -- a proxy	23	
24	for value, but subject to quite a bit of	24	
25	needed due diligence.	25	
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PAGES 34-41 REDACTED

Confidential

Page 42	Page 43
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Page 44	Page 45
<div>1</div> <div>2</div> <div>3</div> <div>4</div> <div>5</div> <div>6</div> <div>7</div> <div>8</div> <div>9</div> <div>10</div> <div>11</div> <div>12</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div> <div>REDACTED</div> <div>Q. Okay. Now, at the bottom it says Total securities/cash received, 52.19 billion. Do you see that?</div> <div>A. Um-hum, yep.</div> <div>Q. So am I understanding you correct</div>	<div>1</div> <div>2</div> <div>3</div> <div>4</div> <div>5</div> <div>6</div> <div>7</div> <div>8</div> <div>9</div> <div>10</div> <div>11</div> <div>12</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div> <div>J. YANG - HIGHLY CONFIDENTIAL to say that you don't know if that was, in fact, received even though this entry says received?</div> <div>A. Well, in fact, I know that some of it wasn't because that 7 billion repo cash wasn't in the long -- you know, eventually. I don't know what people knew at the time.</div> <div>Q. Okay. But over that weekend or on Friday the 19th, the 7 billion had not been received?</div> <div>MR. STERN: Objection to the form.</div> <div>A. I don't know.</div> <div>Q. Don't know? Okay. And do you have any understanding of whether the rest of it was received?</div> <div>MR. STERN: Objection to the form.</div> <div>A. Yeah. I think we already discussed why it's hard for me to say if I agree or not because --</div> <div>Q. So you don't know.</div> <div>A. I don't know.</div> <div>Q. Okay. When -- you see the line Excess Collateral, 7.9?</div> <div>A. Yes.</div>

Confidential

Page 46	Page 47
<p>1 J. YANG - HIGHLY CONFIDENTIAL</p> <p>2 Q. And I assume that's the difference</p> <p>3 between 52.19 and 45 billion, correct?</p> <p>4 A. Yep.</p> <p>5 Q. Is that what you under -- do you</p> <p>6 understand under -- is that what you</p> <p>7 understood to be the haircut associated with</p> <p>8 the September 18th repo?</p> <p>9 MR. STERN: Objection to the form.</p> <p>10 A. I don't think haircut is a very</p> <p>11 precise term.</p> <p>12 Q. Okay.</p> <p>13 A. But -- I don't think it's a very</p> <p>14 precise term. But I do agree that it's sort</p> <p>15 of the excess of this sort of number, 52.19,</p> <p>16 which is a proxy for some measure of what was</p> <p>17 received over the loan amount.</p> <p>18 Q. I appreciate haircut's kind of a</p> <p>19 colloquial term. We've heard it in all these</p> <p>20 depositions. So is it fair to say -- and I am</p> <p>21 trying to take into account your statements</p> <p>22 previously about valuation, that the 7.19 is</p> <p>23 the excess of the total securities in cash</p> <p>24 received as collateral -- I'm sorry. Let me</p> <p>25 rephrase it.</p>	<p>1 J. YANG - HIGHLY CONFIDENTIAL</p> <p>2 Is the 7.19 the excess of the</p> <p>3 collateral that was posted in support of the</p> <p>4 September 18th transaction over and above the</p> <p>5 amount that Barclays paid? Taking into</p> <p>6 account that those numbers are BoNY values,</p> <p>7 not necessarily Barclays' values?</p> <p>8 MR. STERN: Objection to the form.</p> <p>9 Let me hear the question again.</p> <p>10 You're just totally ignoring his</p> <p>11 responses and using your terminology</p> <p>12 despite his testimony.</p> <p>13 MR. HINE: No, I'm not, Jack.</p> <p>14 MR. STERN: Yes, you are.</p> <p>15 MR. HINE: No, I'm not.</p> <p>16 MR. STERN: It's very misleading</p> <p>17 and the record will reflect that --</p> <p>18 MR. HINE: And you can stop</p> <p>19 coaching the witness.</p> <p>20 MR. STERN: I'm not coaching the</p> <p>21 witness.</p> <p>22 MR. HINE: If you have an</p> <p>23 objection to form, put it on the record.</p> <p>24 MR. STERN: I am not coaching the</p> <p>25 witness. I've been silent throughout</p>
Page 48	Page 49
<p>1 J. YANG - HIGHLY CONFIDENTIAL</p> <p>2 this. But, you know, it just goes too</p> <p>3 far.</p> <p>4 MR. HINE: Let's read the</p> <p>5 question.</p> <p>6 MR. STERN: It just goes too far.</p> <p>7 MR. HINE: Read the question.</p> <p>8 MR. STERN: You know what you're</p> <p>9 doing. You know very well what you're</p> <p>10 doing and it's highly misleading.</p> <p>11 MR. HINE: And you're coaching the</p> <p>12 witness, Jack, so put an objection to</p> <p>13 form on the record and that's it.</p> <p>14 MR. STERN: This witness does not</p> <p>15 need to be coached, okay?</p> <p>16 MR. HINE: I'm not trying to</p> <p>17 mislead him. I'm trying to ask a</p> <p>18 question. So you stated your objection.</p> <p>19 Fine. Let's move on.</p> <p>20 MR. STERN: You really should</p> <p>21 relax. You really should relax. I want</p> <p>22 the question reread. And you really</p> <p>23 should stop asking misleading questions.</p> <p>24 MR. HINE: Please read the</p> <p>25 question back.</p>	<p>1 J. YANG - HIGHLY CONFIDENTIAL</p> <p>2 (Record read.)</p> <p>3 A. I wouldn't characterize them as</p> <p>4 excess. The reason is because I've already</p> <p>5 stated my -- the fact that I don't think 52.19</p> <p>6 is a value and obviously we've also discussed</p> <p>7 the fact that the 7 billion repo cash wasn't</p> <p>8 eventually received.</p> <p>9 So then the problem is the 45 of</p> <p>10 course is just a dollar number. It's an</p> <p>11 amount of cash that Barclays provided whereas</p> <p>12 52.9 isn't an equivalent. It's a proxy.</p> <p>13 So I don't think colloquially --</p> <p>14 you know, it says excess collateral here. But</p> <p>15 it's not really excess in the sense that you</p> <p>16 have more. It's just the mathematical</p> <p>17 difference obviously. And that's meant to --</p> <p>18 you know, that's meant to do all kinds of</p> <p>19 things including adjust for uncertainty about</p> <p>20 what the actual value of the securities is.</p> <p>21 Q. So you take issue with Mr.</p> <p>22 Malloy's use of excess collateral in this</p> <p>23 document; is that right?</p> <p>24 MR. STERN: Objection to the form.</p> <p>25 Take issue. You can answer.</p>

Confidential

Page 50	Page 51
<p>1 J. YANG - HIGHLY CONFIDENTIAL</p> <p>2 A. I think if -- everyone knows what</p> <p>3 he means but I think it's not very precise</p> <p>4 terminology, no.</p> <p>5 Q. Okay. And what do you understand</p> <p>6 the Margin Percentage entry to entail?</p> <p>7 A. I guess he's just expressing as a</p> <p>8 percentage that 7.19 number of -- I can't</p> <p>9 tell -- one of the other -- one of the two</p> <p>10 numbers above it. Probably the 7.19 divided</p> <p>11 by 52.19.</p> <p>12 Q. Okay. So that's how it's</p> <p>13 calculated but what it does mean?</p> <p>14 A. He's just expressing as a</p> <p>15 percentage the same concept he's expressing</p> <p>16 with the 7.19.</p> <p>17 Q. Do you have an understanding of</p> <p>18 what the term "margin" means in connection</p> <p>19 with a repo transaction?</p> <p>20 A. Margin is a very commonly used --</p> <p>21 margin has a lot of different meanings,</p> <p>22 actually, in finance. So I don't know why he</p> <p>23 chose that in particular. Very often when I</p> <p>24 hear margin I actually think of an interest</p> <p>25 rate but that's obviously not how it's being</p>	<p>1 J. YANG - HIGHLY CONFIDENTIAL</p> <p>2 used.</p> <p>3 Q. Well, but how do you think it's</p> <p>4 being used in this document?</p> <p>5 A. I think I would just refer to, you</p> <p>6 know, the conversation we had about the 7.19</p> <p>7 number. I don't think it's in -- it's not in</p> <p>8 excess in the sense again, you know, more than</p> <p>9 the 4.45. But it's just a measure of -- it's</p> <p>10 just -- it's just a measure of to what extent</p> <p>11 the proxy for the asset side of the balance</p> <p>12 sheet exceeds the 45 million.</p> <p>13 Q. You don't really know what Mr.</p> <p>14 Malloy meant by the use of the term margin; is</p> <p>15 that what you're saying?</p> <p>16 MR. STERN: Objection to the form.</p> <p>17 A. I guess I know what I just said.</p> <p>18 Why he chose margin instead of just</p> <p>19 percentage, I don't know.</p> <p>20 Q. Well, is it also possible that he</p> <p>21 was referring to amount of return Barclays was</p> <p>22 going to get on its investment of \$45 billion?</p> <p>23 MR. STERN: Objection to the form.</p> <p>24 A. I don't think so.</p> <p>25 Q. Why not?</p>
Page 52	Page 53
<p>1 J. YANG - HIGHLY CONFIDENTIAL</p> <p>2 A. It would just not have occurred to</p> <p>3 me to read it that way.</p> <p>4 Q. Okay. Do you know what Mr. Malloy</p> <p>5 meant when he wrote it?</p> <p>6 A. I think what he meant was that</p> <p>7 is -- that is -- I guess I don't.</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15 REDACTED</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>REDACTED</p>

PAGES 54-117 REDACTED

Confidential

Page 118												Page 119											
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JASEN YANG

Subscribed and sworn to before me
this ____ day of _____, 2009.

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Page 122	Page 123
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
<p>CERTIFICATE STATE OF NEW YORK) : ss. COUNTY OF NEW YORK) I, FRANCIS X. FREDERICK, a Notary Public within and for the State of New York, do hereby certify: That JASEN YANG, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by the witness. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter. IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of September, 2009. FRANCIS X. FREDERICK</p>	<p>----- INDEX ----- WITNESS EXAMINATION BY PAGE JASEN YANG MR. HINE 4 MR. McCoubrey 118 ----- INFORMATION REQUESTS ----- DIRECTIONS: 33 RULINGS: NONE TO BE FURNISHED: NONE REQUESTS: NONE MOTIONS: NONE</p>
Page 124	Page 125
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
<p>----- EXHIBITS ----- EXHIBIT FOR ID. Exhibit 349B document bearing production numbers BCI-EX-00070958 through BCI-EX-00070961..... 52 Exhibit 350B document bearing production numbers BCI-EX-00012161 through BCI-EX-00012162..... 65 Exhibit 351B document bearing production numbers BCI 000878 through BCI 000879 with attachment..... 72 Exhibit 352B document bearing production numbers BCI-EX-00013019 through BCI-EX-00013186..... 85 Exhibit 353B document bearing production numbers BCI-EX-(S)-00055573 through BCI-EX-(S)-00055574..... 101</p>	<p>NAME OF CASE: LEHMAN BROTHERS DATE OF DEPOSITION SEPTEMBER 4, 2009 NAME OF WITNESS LEHMAN BROTHERS Reason codes: 1 To clarify the record 2 To conform to the facts 3 To correct transcription errors Page _____ Line _____ Reason _____ From _____ to _____ Page _____ Line _____ Reason _____ From _____ to _____ Page _____ Line _____ Reason _____ From _____ to _____ Page _____ Line _____ Reason _____ From _____ to _____ Page _____ Line _____ Reason _____ From _____ to _____ Page _____ Line _____ Reason _____ From _____ to _____ Page _____ Line _____ Reason _____ From _____ to _____ Page _____ Line _____ Reason _____ From _____ to _____ JASEN YANG</p>